UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1089
16 March 1995

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-sixth session

SUMMARY RECORD OF THE 1089th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 10 March 1995, at 3 p.m.

Chairman: Mr. GARVALOV

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GE.95-15655 (E)

The meeting was called to order at 3.15 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 3) (continued)

1. The CHAIRMAN recalled that, of the seven cases which, in the view of Committee members, warranted consideration under item 3, the situations prevailing in Algeria, Burundi, Rwanda, Papua New Guinea and The Former Yugoslav Republic of Macedonia remained to be discussed. He proposed that the Committee should begin with the situation in Algeria.

Algeria

2. The CHAIRMAN drew attention to the following draft decision on the situation in Algeria which had been proposed by Mr. Banton at the Committee's preceding session and deferred to the current session:

> "1. The Committee expresses its alarm over the continuing terrorist violence in Algeria, now involving attacks upon foreigners that could be interpreted as xenophobic.
>
> 2. The Committee urges the Government of Algeria to do its utmost to guarantee the security of all, and to submit, as soon as possible, further information on the implementation of the Convention in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination."

3. Mr. de GOUTTES said it was clear from discussions he had had with other Committee members that everyone was aware of the gravity of the situation in Algeria, where there had been very many victims of terrorist violence among all sectors of the population, especially persons engaged in human rights activities, journalists, teachers and intellectuals. A number of Committee members believed the issue to be politically very sensitive. Any text to be adopted by the Committee should therefore be carefully worded, should be brief and should meet with consensus. Since Algeria's eleventh and twelfth periodic reports were overdue, a solution acceptable to all might be to start out from that point and to reword paragraph 2 of the proposed text along the lines of the third paragraph of the text adopted by the Committee concerning the Russian Federation. In order to meet the concerns of some members about the proposed wording of paragraph 1, he would suggest retaining only the idea expressed in the first part of the sentence.

4. He consequently proposed a single paragraph, to read:

> "Alarmed by the continuing terrorist violence in Algeria, the Committee, in accordance with article 9, paragraph 1 (b), of the International Convention on the Elimination of All Forms of Racial Discrimination, requests the Algerian Government to expedite the submission of its eleventh and twelfth periodic reports, which were due on 15 March 1993 and 15 March 1995, respectively, to permit their consideration at the Committee's forty-seventh session, with particular reference to the protection of the rights covered by article 5 (b) of the Convention."

5. Mr. ABOUL-NASR said that, before taking any decision requesting further information, the Committee owed it to itself and to the State party to try to contact representatives of the Government of Algeria, requesting them to provide any information which they thought might be relevant to the Committee's urgent procedures. He, too, was most alarmed by the very serious situation in Algeria, but was not sure it related to any of the issues covered by the Convention. Since Algeria's periodic reports were overdue, he would argue in favour of a letter requesting the Government to expedite the submission of its reports, especially in the light of the Committee's concern that the situation prevailing in Algeria might have a bearing on the rights protected under the Convention. Only after considering the Algerian Government's report or statement in response to the Committee's letter could the Committee make an informed analysis of the situation.

6. Mr. SHERIFIS associated himself with the views expressed about the extremely alarming situation in Algeria. He was not certain, either, whether the violence and terror in Algeria concerned the forms of discrimination covered by the Convention. Before proceeding to adopt the text of a decision or a letter, a decision should be taken on procedure. He asked whether it would be possible, through the Secretariat, to approach the Permanent Mission of Algeria to ascertain whether a representative might appear before the Committee at the current session to provide some information about the situation in that country so that the Committee could take the appropriate steps. He added that, if it came to a discussion on the draft decision proposed by Mr. Banton, he would agree to the wording of paragraph 1 and would suggest that paragraph 2 should be reworded along the lines suggested by Mr. de Gouttes.

7. The CHAIRMAN said that Mr. Aboul-Nasr and Mr. Sherifis had rightly raised the procedural issue, but reminded members that the Committee had already adopted two decisions under item 3 without approaching the States parties concerned. If it now wished States parties to be contacted, fairness and consistency would require those decisions to be discarded and the same procedure to be applied equally to all States parties. He submitted to the Committee's guidance in the matter.

8. Mr. ABOUL-NASR said he understood that contact had been made with the authorities of the Russian Federation, who had intimated that they preferred not to appear before the Committee.

9. The CHAIRMAN replied that official contact must be made through the Chairman if such a position were to be adopted; that had not been done in the case of the Russian Federation.

10. Mr. AHMADU said that he could not see how the situation in Algeria was relevant to the Convention, since the violence in that country appeared to be indiscriminate. For the sake of consensus, he would agree on a request for further information in accordance with article 9, paragraph 1, of the Convention or even a report, although the Committee must bear in mind the need for consistency, since it might on another occasion be faced with a similar situation in a country which had in fact submitted its report on time. The terrible situation in Algeria was alarming, but it also called for sympathy.

In order to demonstrate the Committee's constructive attitude, he suggested that the words "and sympathy" be added after the word "alarm" in the text proposed by Mr. Banton.

11. Mr. WOLFRUM said he agreed with previous speakers that the human rights situation in Algeria was extremely alarming and that there was no real evidence to permit the conclusion that the conflict was a racial one within the meaning of the Convention. One feature of the acts of violence committed that did seem clear, however, was that they were at least partially motivated by xenophobia and, as such, did fall within the competence of the Committee, which had expressed concern over manifestations of xenophobia in the past, as in the cases of Germany, the United Kingdom or Sweden. On the procedural issue and whether the situation in Algeria warranted urgent action by the Committee, he felt that, although the Committee should avoid passing judgement, the grave human rights situation in the country warranted a request for information. Since the State party was late in reporting, it could be asked to expedite the submission of its periodic reports to permit their consideration at the Committee's forty-seventh session, with a request for specific information on xenophobia.

12. Mr. FERRERO COSTA said that he shared Mr. Wolfrum's views. His main concern was with procedural consistency. The Committee must deal in the same way and on the basis of consensus with all cases subject to urgent procedures. On the substance of the present discussion, he agreed that the Algerian problem was a very serious one, but he was not sure about its ethnic or xenophobic aspects. As to action by the Committee, he was in favour of the suggestion by Mr. de Gouttes.

13. Mr. VALENCIA RODRIGUEZ also stressed the need for a consistent approach. The precedent established in response to the situation in Chechnya should be followed and a decision should be adopted. It would be premature at the present time to pass value judgements on events in Algeria and whether they related to racial or ethnic discrimination or xenophobia. The Committee should await the report by the State party before committing itself in that connection. He was also in favour of the course of action suggested by Mr. de Gouttes.

14. Mr. SHAHI joined in calling for consistency on the basis of the precedents already established. On the substance of the matter, he agreed with Mr. Wolfrum.

15. Mr. SONG Shuhua asked what criteria were used to select cases warranting consideration under urgent procedures. He had no recollection of any substantive exchange of views in the Committee on that issue. There was, however, an obvious need for consistency in the Committee's approach. In view of the uncertainty about the nature of events in Algeria, which had a great many ramifications, he wondered whether the Committee was in fact ready for a collective decision along the lines of those taken in the other cases.

16. The CHAIRMAN reminded the members of the Committee that they had called for the consideration, as a matter of priority and under the heading of early warning and urgent procedures, of the cases of Chechnya, Papua New Guinea, Mexico, Algeria, Burundi, Rwanda and the Former Yugoslav Republic of

Macedonia. At that time, he had stated, in reply to a question by Mr. Aboul-Nasr, that the list was not limitative. He had acted on the Committee's wishes and had in no way tried to restrict its freedom. There should be no misunderstanding on that point.

17. Mr. SONG Shuhua said that, as he recalled, some seven or eight cases had been put forward as requiring urgent attention. Mr. Aboul-Nasr had questioned the basis for the selection. He himself had argued in favour of establishing priorities. If such priorities were to be discussed, he was not sure where he would place Algeria on the list, but, if there was a consensus in favour of immediate consideration, he would not object.

18. Mr. ABOUL-NASR said he took it from the Chairman's explanation that the list of urgent cases remained open. He proposed that Somalia, Liberia, Afghanistan and Cambodia should be added.

19. Mr. RECHETOV suggested that any member of the Committee suggesting the name of a country or countries in connection with early warning and urgent procedures should be required to submit justifications in writing on the basis of which the Committee could adopt informed decisions.

20. The CHAIRMAN said he saw merit in that suggestion, but reminded the Committee that it was now trying to decide what to do with regard to Algeria.

21. Mr. AHMADU said that the Committee had enough on its hands with the current list of countries. Other situations might be considered at the next session. He recalled that the Committee dealt with Governments, but, in some of the countries just mentioned, there was no Government.

22. Mr. BANTON proposed that the draft decision which he had suggested at the preceding session should be replaced by the following text:

> "Alarmed by the continuing violence in Algeria, the Committee, in accordance with article 9, paragraph 1, of the International Convention on the Elimination on All Forms of Racial Discrimination, requests the Government of Algeria to expedite its eleventh periodic report, due on 15 March 1993, with particular reference to any threat to the right listed in article 5 (b) of the Convention posed by xenophobic tendencies."

23. Mrs. SADIQ ALI said that, although she preferred Mr. de Gouttes' proposal, she could accept Mr. Banton's amended text.

24. Mr. CHIGOVERA said that he would not oppose a consensus in favour of the amended text proposed by Mr. Banton.

25. Mr. FERRERO COSTA said he feared that the reference to "xenophobic tendencies" in Mr. Banton's text introduced a value judgement that might further complicate matters. He would not oppose a consensus on either of the proposals, but considered Mr. de Gouttes' more conciliatory approach preferable.

26. Mr. de GOUTTES suggested that differences of opinion might be reconciled if the words "posed by xenophobic tendencies" were deleted from Mr. Banton's amended text.

27. Mr. SHERIFIS said that he agreed with Mr. de Gouttes.

28. Mr. BANTON said that he could accept Mr. de Gouttes' proposal.

29. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee agreed to Mr. Banton's draft decision, as amended by Mr. de Gouttes. He pointed out that the text should refer to Algeria's eleventh and twelfth periodic reports, due on 15 March 1993 and on 15 March 1995, respectively, and that the word "International" should be added before the word "Convention" in the last line.

30. Mr. ABOUL-NASR proposed that the title of the text should be the same as that of the text adopted in the case of the Russian Federation.

31. It was so decided.

32. The decision, as amended, was adopted by consensus, without a vote.

Former Yugoslav Republic of Macedonia

33. The CHAIRMAN drew attention to the draft letter to the Minister for Foreign Affairs of the Former Yugoslav Republic of Macedonia proposed by Mr. Banton.

34. Mr. ABOUL-NASR, supported by Mr. SHERIFIS and Mr. AHMADU, suggested that the letter should be redrafted in the form of a decision.

35. The CHAIRMAN explained that Mr. Banton had drafted a letter solely to facilitate the Committee's proceedings. The final text could certainly take the form of a decision, as was customary under the Committee's urgent procedures.

36. Mr. van BOVEN said that, while he supported the idea that the Committee should request urgent information, it seemed odd to him that it should ask for a special report from a State party which had not yet submitted its initial report. It would be better to request some specific information in connection with the report that was due.

37. The CHAIRMAN requested Mr. Banton to redraft his letter in the form of a decision.

38. Mr. BANTON read out the following draft decision for the consideration of the Committee:

"Report requested urgently from the Former Yugoslav Republic of Macedonia

Alarmed by reports of ethnic tension, the Committee on the Elimination of Racial Discrimination, in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All

Forms of Racial Discrimination, requests the Government of the Former Yugoslav Republic of Macedonia to expedite the submission of its initial report due on 18 January 1995 in order to facilitate the consideration, at the Committee's forty-seventh session, of the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in the Former Yugoslav Republic of Macedonia."

39. The CHAIRMAN noted that the text included the word "submission". In that case the same word should also be included in other similar decisions.

40. Mr. RECHETOV suggested that a simpler solution would be to delete the word "submission".

41. It was so decided.

42. Mr. van BOVEN said that the word "alarmed" seemed to be too strong in the case under consideration. It had been used in other texts, but in cases in which thousands of persons had died. He suggested the word "concerned" should be used instead.

43. It was so decided.

44. The draft decision, as amended, was adopted without a vote.

Burundi, Rwanda, and Papua New Guinea

45. The CHAIRMAN noted that the Committee did not have before it any draft decisions in respect of Burundi, Rwanda or Papua New Guinea. He suggested that the Committee should start with Burundi.

46. Mr. SHAHI said that, although the Committee had no draft decisions before it, it had been brought up to date by the secretariat on the position in the three countries concerned. The situations in Papua New Guinea and Rwanda were clear. The country rapporteurs for those countries might be requested to prepare draft decisions. The situation in Burundi, however, was not so clear since the information available was not always consistent. Clarification was therefore needed and a draft decision should then be prepared.

47. Mr. CHIGOVERA said that the information given by the secretariat in the briefing on Burundi had substantially reflected the situation in that country. It was his understanding that the situation was not so difficult, although there was an urgent need to reorganize public institutions and that would involve a reconciliation between the parties involved. Whether Burundi should be included among the States parties to which early warning and urgent procedures applied was another matter. Moreover, Burundi had not submitted its seventh, eighth or ninth periodic reports. The Committee could call for the submission of those reports and request the Government to include in them information on current relations between the parties and on ethnic killings.

48. Mr. BANTON said that, although there were close parallels between Burundi and Rwanda, the Committee might wish to adopt different courses because, in Burundi, there was a functioning Government. In any case, those two States parties were likely to remain on the Committee's agenda for quite a long time.

He would propose a text on Rwanda, for inclusion in the Committee's report, stating that the Committee had received further information, that it reiterated the positions adopted at previous meetings and that it would keep the situation under review.

49. Mr. AHMADU said that he fully supported Mr. Banton. However, he suggested that the Committee should urge the international community to redouble its efforts to improve the situation in Rwanda and Burundi, which should in any case remain on the Committee's agenda.

50. The CHAIRMAN, speaking as a member of the Committee, suggested that the Committee should restate its concern about the situation in both countries, which should remain on its agenda for consideration under early warning procedures. The Committee had to acknowledge the work done by the High Commissioner for Human Rights in respect of Rwanda and state that it would reconsider the matter at its next session.

51. Mr. ABOUL-NASR suggested that the Committee should wait a while before taking any action.

52. The CHAIRMAN explained that the Committee was not taking any decision because it had no text before it. Members were merely exchanging views.

53. Mr. CHIGOVERA said that he supported Mr. Banton's suggestion. The situations in the two countries were not the same. In Burundi, there was a functioning Government, but it had not been able to submit a report. However, the information supplied by the secretariat gave a correct picture of the situation there. The efforts being made by the international community would greatly help Burundi to overcome its problems. Burundi should be able to comply with its obligations under the Convention. At the moment, the situation there might not be covered by early warning and urgent procedures, but, on the basis of the information already provided by the secretariat, the Committee was entitled to call for reports incorporating information on the areas of concern to it.

54. The CHAIRMAN requested Mr. Banton, the country rapporteur for Rwanda, and Mrs. Sadiq Ali, the country rapporteur for Burundi, to prepare draft texts for consideration by the Committee early in the following week.

55. Mr. WOLFRUM, referring to the situation in Papua New Guinea, said that the Committee had expressed its concern at reports of numerous human rights violations on the island of Bougainville in its most recent concluding observations in 1994 (see doc. A/49/18, paras. 92-105). It appeared that the situation had improved somewhat since then; a peace conference had been held in October 1994, leading to the signing of the "Mirigini Charter" which, it was hoped, would lead to a political settlement of the issue. However, the Commission on Human Rights had noted with concern in its resolution 1995/65 on the situation in Bougainville that two opposition groups, the Bougainville Revolutionary Army and the Bougainville Interim Government, had not been adequately represented at the peace negotiations. It seemed that the peace process was becoming bogged down.

56. If the Committee so agreed, he would draft a decision referring to the Committee's earlier statements on the situation in Bougainville, expressing its support for peace negotiations, but stating that they must include all parties to the conflict, and inviting the Government of Papua New Guinea to avail itself of the technical assistance services of the Centre for Human Rights.

57. Mr. ABOUL-NASR asked whether Papua New Guinea had a mission in Geneva which might send a representative to talk to the Committee.

58. The CHAIRMAN said that Papua New Guinea did not have a mission in Geneva. That meant that all communication had to be in writing, and that was obviously less satisfactory than direct contact.

59. Mr. WOLFRUM said that, in the past, the Government of Papua New Guinea had flatly refused to cooperate with the Commission on Human Rights and other United Nations human rights bodies, but it did appear that it might now be adopting a more flexible attitude. He thought that a letter from the Committee might have some effect.

60. The CHAIRMAN suggested that Mr. Wolfrum should draft a decision for consideration by the Committee along the lines he had proposed.

61. It was so decided.

Other situations of concern

62. The CHAIRMAN suggested that the Committee should decide what action to take in respect of the situations in Somalia, Liberia and Afghanistan, as well as in any other countries which members thought the Committee should discuss.

63. Mr. AHMADU said that it was difficult for the Committee to take any action in those situations. The Committee was supposed to deal with Governments, but countries such as Somalia or Liberia had no real Government. It would be more useful to have a briefing on the situation in those countries.

64. The CHAIRMAN said that the Committee should make some comment on the situation in those countries. It could, for instance, express its concern at the situation which apparently existed and point out its lack of reliable information. The Committee could also ask the secretariat to provide all the information at its disposal, either in writing or in the form of an informal briefing.

65. Mr. ABOUL-NASR pointed out that most of the secretariat officials dealing with the countries in question were based in New York; he did not know whether the Centre for Human Rights possessed much first-hand information; moreover, a secretariat briefing would be very time-consuming. He suggested that the Committee should merely take note of the human rights situation in those countries in its report and express its concern.

66. Mr. RECHETOV said that the Committee's early warning and urgent procedures were designed for use in situations giving rise to serious concern.

However, it was difficult to see what practical action the Committee could take if the country concerned had no Government, like Somalia, or indeed too many Governments, like Afghanistan, although, in the latter case, the Commission on Human Rights had found a way of making its concerns clear. If the situation in the country concerned clearly had an ethnic element, the Committee was justified in making its views known.

67. At the beginning, the Committee had used its early warning and urgent procedures in cases which were clearly of serious concern to the entire international community, but, since then, it had concentrated on cases of lesser importance and failed to consider a number of truly tragic situations. However, it was difficult to see what the Committee could do in cases where a country had no viable Government at all, as opposed to a Government which refused to cooperate with the Committee.

68. Mr. van BOVEN said he agreed that early warning and urgent procedures were relatively new and that the Committee was still feeling its way. The Committee had always dealt with Governments, on the grounds that they were responsible for the promotion and protection of human rights in their territory, but, in practice, Governments were sometimes unable to do anything.

69. The Committee should not merely express concern about the situation in a certain country, for that would have very little effect. Nor could the Committee cover every situation of concern throughout the world. In his opinion, it should confine itself to a limited number of cases, but deal with them properly, seeking a dialogue with the Government and following up its action at later sessions. After all, the Commission on Human Rights was already working on a wide range of human rights situations; the Committee's strength lay in its authority to supervise States parties in their implementation of the Convention.

70. The CHAIRMAN suggested that the discussion should be resumed at a later meeting.

71. It was so decided.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 8) (continued)

Seriously overdue reports

72. The CHAIRMAN invited the Committee to consider the following working paper, prepared by Mr. Banton, on State party reports which had been due some years before, but had not yet been submitted:

"SERIOUSLY OVERDUE REPORTS

1. This note lists the States (i) to which special letters were addressed in 1991-1994, together with the years in which they were subsequently considered, or are due to be considered; (ii) the States to which, if the Committee continues with its established procedure, letters should be sent in 1995 if no reports have been received; and (iii) describes further possible action.

States, 1991		1992		1993	
Bahamas	1991	Somalia	1992	Iran	1993
Belgium	1992	Cape Verde	1992	Tunisia	1994
Côte d'Ivoire	1991	Lesotho	1992	Guatemala	1994
Fiji	1991	St. Vincent	1992	Cent Af R	1993
Gabon	1991	El Salvador	1994	Sudan	1993
Gambia	1991	Papua New Guinea	1992	Mozambique	1993
Guinea	1991	Zambia	1993	Jamaica	1993
Lebanon	1991	Solomon Islands	1992	Afghanistan	1994
Sierra Leone	1991	Botswana	1992	Chad	1993
Togo	1991	Lao PDR	1992	Trinidad	1994
Zaire	1991	Viet Nam 1992 &	1993	Cambodia	1994
		Burkina Faso	1992		
		Bolivia	1994		

1994		1995	Initial reports overdue since	
Nicaragua	1995	Brazil	Liberia	1977
Sri Lanka	1995	India	Guyana	1979
Mauritius	1994	Pakistan		
United Arab Emirates	1994	Panama	Suriname	1985
		Venezuela	Congo	1989
Mali	1994	Nepal	Antigua	1989
Tanzania	1995	Madagascar	Mauritania	1990
Barbados	1994			

2. In 1991, the letters were sent in March, followed by letters in August describing the outcome of the review. More recently, the decision about sending the letters has been taken in August, but, in view of the pressure on the agenda at that session, it might be better to consider the item on the agenda of the spring session.

3. Some States have responded positively to our letters; some have not. Where States have not responded, the Committee might decide to review implementation in their territory again after, say, four years. In that event, the following States might now be brought back into the second round of the review procedure: Sierra Leone, Swaziland, Guinea, Zaire, Gambia, Côte d'Ivoire, Lebanon, Gabon, Togo, Uganda, Fiji, Bahamas.

4. Country rapporteurs will need to be appointed for all States brought into the review procedure.

5. So far, the only criterion for bringing a State into the review procedure has been the lapse of time. When concern has been felt about developments in a State, a request for further information in terms of article 9.1 has been made, without reference to whether a report was overdue.

6. The fifth meeting of persons chairing human rights treaty bodies, in paragraph 17, urged the States parties, at their regular meetings, to

take action over failures to report. 'These meetings should not only be devoted to elections of members of treaty bodies, but should also consider general problems relating to the implementation of the treaties.' CERD might this year address a letter to the chairman of its States parties' meeting describing what it believes these problems to be in our case. Among other things, it might explain that it has hitherto refrained from reviewing implementation of the Convention on the territory of States parties which have not submitted an initial report in the belief that it lacks authority to do so, but that other treaty bodies have brought such States within their review procedures when the initial reports have been seriously overdue. The six States parties listed above have all failed to submit initial reports within five years of their accession to the Convention."

73. Mr. BANTON (Rapporteur) said that he would be grateful if the Committee would take note of the information contained in his working paper. As the Committee could see, a number of States had not even submitted their initial reports yet, but that was a wider issue which would require detailed consideration at some point in the future.

74. The CHAIRMAN drew attention to the suggestion in paragraph 6 that the Committee might write to the Chairman of the next meeting of States parties, due in January 1996, asking the States parties to consider general problems relating to the implementation of treaties. He suggested that the Committee should take note of the working paper and ask Mr. Banton to draft a letter to the Chairman of the meeting of States parties for consideration by the Committee at its next session.

75. It was so decided.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

76. Mr. VALENCIA RODRIGUEZ asked whether any reply had been received to the letter which the Committee had sent to the Government of the Federal Republic of Yugoslavia the previous week.

77. The CHAIRMAN said that no reply had yet been received.

The meeting rose at 5.45 p.m.